

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JEANNETTE DICK,

Plaintiff,

-against-

UNITED STATES of AMERICA and UNITED STATES
POSTAL SERVICE,

Defendants.
-----X

COMPLAINT

____ CIV. ____ (____)

NATURE OF THE ACTION

1. That this action arises under the Federal Tort Claims Act, 28 U.S.C. Section §2671, et seq. as a result of personal injuries sustained by Plaintiff JEANNETTE DICK when she was caused to trip and fall while at the United States Post Office located at 3300 Conner Street, in the County of Bronx, City and State of New York.

JURISDICTION AND VENUE

2. This Honorable Court has Jurisdiction over this action pursuant to 28 U.S.C. 1346(b), which provides that the United States District Courts have exclusive jurisdiction of civil actions on claims against the United States for personal injury and injury to property.

3. That Venue is properly within this District under 28 U.S.C. § 1402(b) because the cause of action arose in the Southern District of New York and Plaintiff resides within this District.

THE PARTIES

4. That at all times herein mentioned, the Plaintiff JEANNETTE DICK was and still is a resident of the County, City and State of New York.

5. That at all times hereinafter mentioned, Defendant UNITED STATES of AMERICA was and still is a federal governmental agency, which must come under the provision of the Federal Court Claim Act.

6. That at all times hereinafter mentioned, Defendant UNITED STATES POSTAL SERVICES, was and still is a United States Federal Agency and business entity duly organized, formed and existing under the laws of the UNITED STATES of AMERICA and an independent establishment of the executive branch of the Government of the United States as a quasi-government agency, with place of business, postal office location at 3300 Conner Street, in the County of Bronx, City and State of New York.

NOTICE OF CLAIM

7. That on or about March 3, 2019, Plaintiff served upon the Defendant, UNITED STATES POSTAL SERVICE, a sworn Claim for Damages, Injury or Death (form 95-109) pursuant to the provisions of Federal Tort Claims Act, which states, inter alia, the appropriate federal agency, Plaintiff's date of birth, the time and place of where the injuries and damages were sustained, together with Plaintiff's demands for adjustments thereof. See Exhibit "1."

8. That more than six (6) months from service of the Claim for Damages has passed and Defendant has failed to adjudicate and/or make any adjustments or payments thereof and pursuant to 28 U.S.C.A. §2675(a), Plaintiff elects to consider such failure to act as a final denial of the claim.

FIRST CAUSE OF ACTION: NEGLIGENCE

9. That a Claim for Damages was served upon the Defendant, UNITED STATES POSTAL SERVICE, on behalf of Plaintiff JEANNETTE DICK in the amount of ONE MILLION DOLLARS (\$1,000,000.00).

10. That the Plaintiff has exhausted all of her administrative remedies in this matter.

11. That all conditions precedent to this action have been performed or have occurred.

12. That at all times hereinafter mentioned, the UNITED STATES POSTAL SERVICE was and still is an agency and/or department of the Defendant, the UNITED STATES of AMERICA.

13. That at all times hereinafter mentioned, the Defendant, the UNITED STATES of AMERICA, was the owner of the UNITED STATES POSTAL SERVICE and the post office located at 3300 Conner Street, in the County of Bronx, City and State of New York.

14. That at all times hereinafter mentioned, Defendant UNITED STATES POSTAL SERVICE, owned the PREMISES at issue.

15. That at all times hereinafter mentioned, Defendant UNITED STATES of AMERICA, operated the PREMISES at issue.

16. That at all times hereinafter mentioned, Defendant UNITED STATES POSTAL SERVICE, operated the PREMISES at issue.

17. That at all times hereinafter mentioned, Defendant UNITED STATES of AMERICA, maintained the PREMISES at issue.

18. That at all times hereinafter mentioned, Defendant UNITED STATES POSTAL SERVICE, maintained the PREMISES at issue.

19. That at all times hereinafter mentioned, Defendant UNITED STATES of AMERICA, managed the PREMISES at issue.

20. That at all times hereinafter mentioned, Defendant UNITED STATES POSTAL SERVICE, managed the PREMISES at issue.

21. That at all times hereinafter mentioned, Defendant UNITED STATES of AMERICA, controlled the PREMISES at issue.

22. That at all times hereinafter mentioned, Defendant UNITED STATES POSTAL SERVICE, controlled the PREMISES at issue.

23. That at all times hereinafter mention, Defendant UNITED STATES of AMERICA, made special use of the PREMISES as they derived a benefit unrelated to public use.

24. That at all times hereinafter mention, Defendant UNITED STATES POSTAL SERVICE, made special use of the PREMISES as they derived a benefit unrelated to public use.

25. That on April 10, 2019, while Plaintiff was walking on the premises known at 3300 Conner Street, in the County of Bronx, City and State of New York, more specifically walking on the sidewalk, at the above address, Plaintiff JEANNETTE DICK was caused to trip and fall and sustain serious personal injuries.

26. That said accident and resulting injuries to the Plaintiff JEANNETTE DICK were caused solely and wholly by reason of carelessness, recklessness and negligence of the Defendants without any negligence of the Plaintiff contributing thereto.

27. That the Defendants and/or said Defendants' agents, servants, licensees' contractors, subcontractors, employees, and other affiliated agencies and departments, were negligent, careless, and reckless; in the ownership, operation, and management of their facilities, including the post office located at 3300 Conner Street, in the County of Bronx, City and State of New York;

28. That the aforesaid occurrence took place without any negligence on the part of the Plaintiff hereto, but occurred solely through the negligence of the Defendants, UNITED

STATES of AMERICA and UNITED STATES POSTAL SERVICE, and the Defendants' agents, servants, licensees' contractors, subcontractors, employees, and other affiliated agencies and departments.

29. That all times hereinafter mentioned, it was the duty of the Defendants', its agents, servants, and/or employees to maintain the aforesaid premises and sidewalk in a safe, proper, lawful and careful manner, so that the same would not be dangerous to persons lawfully on said premises and to keep the same from defaults, traps and conditions constituting a danger and menace to person lawfully and properly therein.

30. That by reason of the foregoing, Plaintiff JEANNETTE DICK was caused to sustain serious personal injuries and to have suffered pain, shock and mental anguish; that these injuries and their effects will be permanent; and as a result of said injuries Plaintiff has been caused to incur, and will continue to incur, expenses for medical care and attention; and, as a further result, Plaintiff was, and will continue to be, rendered unable to perform Plaintiff's normal activities and duties and has sustained a resultant loss therefrom.

31. The defendant herein demonstrated a conscious and deliberate disregard of the interests of the plaintiff so that the conduct of the defendant herein is willful and wanton.

32. That Defendant UNITED STATES of AMERICA is vicariously liable for the negligence of its agency and/or department UNITED STATES POSTAL SERVICE.

33. That by reason of the foregoing, the Plaintiff, JEANNETTE DICK, brings this action for the severe emotional distress and suffering, and for damages in the amount of ONE MILLION DOLLARS (\$1,000,000.00).

PRAYER FOR RELIEF


WHEREFORE, Plaintiff JEANNETTE DICK prays for the following relief:

- A. Judgment against the Defendant in favor of Plaintiff, JEANNETTE DICK, in an amount to be proved at trial;

All together with costs and disbursements of this action, and any other relief this Court deems just and proper.

Dated: New York, New York
September 26, 2019

Yours, etc.



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